

Approved April 25, 1989 Ginger Barr
Date Chm.

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:39 ~~am~~/p.m. on March 22, 1989 in room 526-S of the Capitol.

All members were present except:

Representative Bill Bryant
Representative Sherman Jones - Excused
Representative Kenny King - Excused
Representative Kathleen Sebelius
Representative Joan Wagnon

Committee staff present:

Mary Torrence, Revisor of Statutes
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Chuck Simmons, Kansas Department of Corrections (KDC)
Steve Schwarm, Deputy Attorney General, Criminal Division
Lt. Bill Jacobs, Kansas Highway Patrol
Reverend Richard Taylor, Kansans for Life at Its Best
Mark Wettig, Kansas Department of Revenue (KDR)
Representative J. C. Long
Denny Burgess, Sunflower Racing, Inc.
Jonathan Small, Greenwood County Fair Association; Rooks County Fair Association

HB 211

Chuck Simmons explained the bill corrects a conflict for credit on an inmate's sentence for time spent in a residential facility while on probation or assigned to a community corrections program, Attachment No. 1. It is viewed by KDC as a technical amendment.

There were no opponents to the bill.

HB 2460

Steve Schwarm explained the Kansas implied consent law applies only in Kansas. This bill would address situations in border areas, e.g. an accident where the accident victim (a driver suspected of DUI) is transported across the state line for hospitalization and would clarify a Kansas law enforcement officer's authority to request chemical tests for BAT analysis, Attachment No. 2.

Committee discussion elicited:

All four bordering states have similar implied consent laws. The Oklahoma Public Safety Commissioner requested a copy of the bill to hand carry to the legislature there. The Attorney General intends to contact the National Association of Attorney Generals to form a regional compact applicable anywhere in the United States.

Lt. Bill Jacobs was a proponent of the bill cited an example, as suggested above, and the inability to obtain chemical test analyses to prove DUI, Attachment No. 3.

The bill would give law enforcement officers the authority to request such information from a medical person or hospital. The formation of a regional compact would create the possibility of obtaining information by calling the appropriate law enforcement agency in a bordering state and requesting it to obtain the necessary information.

Reverend Taylor spoke in support of the bill stating the problem should be attacked from all directions. He stated he would submit written testimony for the committee record, Attachment No. 4.

There were no opponents to the bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

room 526-S, Statehouse, at 1:39 ~~xxm~~/p.m. on March 22, 1989.

HB 2334

Representative Long explained the proposed changes in Sub. HB 2334 which address parimutuel tracks organized under the County Fair Association Statute, Attachment No. 5. Attachment No. 5A is Sub. HB 2334.

Committee discussion established:

1. The Attorney General's office voiced no objection to investigating only the officers of an organization in charge of organizing a race.
2. County fair officers are residents of the county.
3. The \$500.00 application fee is a renewable fee for up to 25-30 years or can be an annual fee.
4. The revisor advised that under the licensure statute, any change in officers must be reported to the Racing Commission but does not change the status of the license.
5. There are proposed amendments, considered to be clarifying language, by the Racing Commission but they are not available as the Commission has not yet met.

Denny Burgess submitted an amendment which would permit employees of a race track, not involved in the actual conduct of a race, to place wagers, Attachment No. 6. He contended the rules and regulations adopted by the Racing Commission don't "square with existing law". He cited a technicality of a clerk accidentally punching a wrong number on a ticket and being required to buy that ticket in order to balance the books which he claimed could be misconstrued as wagering.

Committee discussion:

1. The security of prohibiting an employee of one track from going to another track to wager is unenforceable.
2. The original reason for prohibiting such wagering was unknown by anyone present.
3. In response to a committee member's question re: Sunflower Racing Inc.'s interest in the bill, Mr. Burgess responded it was unfair to prevent an employee from wagering at a track different from his employing track.
4. Mr. Burgess' proposed change is at the bottom of page two, the rest being existing language. There is a cross reference at the bottom of page nine regarding definitions.

The chairman requested a copy of Mr. Burgess' statement for the committee record. He responded that he did not want to put anything in the record lest another lobbyist quote from it for antagonistic purposes at a future date. Mr. Burgess stated that if he did not supply the testimony, nothing could be done to him. Chairman Barr advised Mr. Burgess, as a paid professional lobbyist, that his written statement would be required or he would forfeit the privilege of appearing before the committee. Attachment No. 6A is Mr. Burgess' statement.

Jonathan Small commented on the general concept of the amendments submitted. He cited the specific example of Rooks County where the cost was \$15,000.00 for the investigation of its 21 member board and was not anticipated in the budget. This procedure will not permit the small county fairs to hold races as anticipated. Since only a small percentage of the fair board is involved in organizing and running the races, he supported the concept of Representative Long's amendment. Mr. Small stated he would submit a written statement for the committee record, Attachment No. 7.

Committee Discussion

Since "day to day responsibility" might have various interpretations, it was suggested investigations be limited to those involved in the parimutuel process.

Regarding Mr. Burgess' amendment, Mr. Small stated Eureka Downs would support the concept of allowing employees not involved in the organization, administration, and operation of parimutuel activity to place wagers. Wagering determines the purse which in turn "drives the economic activity".

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

room 526-S, Statehouse, at 1:39 ~~xxx~~/p.m. on March 22, 1989

Discussion

1. In response to a question from a committee member, Mr. Small stated board members are residents of the county from a policy standpoint. Greenwood and Rooks counties require that board members and shareholders be residents. They are recognized fair associations by statute.
2. Staff was requested to determine if statute requires board members to be residents of the county.
3. On a point of clarification, one member asked if an employee could place a wager where he works. Mr. Burgess responded affirmatively with the exception of those involved in the race itself.
4. Another member perceived this to be a major policy change, given the committee's previous lengthy consideration of who should be allowed to wager and why. Mr. Small responded the original intent in structuring parimutuel was to be conservative. He stated the large number wanting to wager was not anticipated.

There were no opponents to the bill.

Chairman Barr appointed a subcommittee to evaluate concerns with HB 2334. Representative Long will be chairman and members will be Representatives Long, Sprague and Roy.

Attachment No. 8 is a summary of parimutuel legislation prepared by staff at the request of the chairman.

The meeting adjourned at 2:12 p.m. The next meeting of the committee will be March 23, 1989, 1:30 p.m. in Room 526-S.

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

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Topeka, Kansas 66612-1284
(913) 296-3317

Mike Hayden
Governor

Roger V. Endell
Secretary

March 22, 1989

TO: House Federal and State Affairs Committee

RE: **SENATE BILL 211**

S.B. 211 proposes an amendment to K.S.A. 21-4608(e). This statute requires amendment to eliminate a conflict with H.B. 3079, enacted during the 1988 Session.

Background: New Section 4 of H.B. 3079 provides for credit on an inmate's sentence for time the inmate spent in a residential facility while on probation or assignment to a community corrections program. K.S.A. 21-4608(e) provides that no such credit will be given when computing consecutive sentences. The amendment proposed in S.B. 211 would eliminate that conflict and would allow the credit consistent with the provisions of H.B. 3079, enacted last session.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ROBERT T. STEPHAN
ATTORNEY GENERAL

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Testimony of
Assistant Attorney General Steve Schwarm
Before the House Federal and State Affairs Committee
RE: House Bill 2460
March 22, 1989

I am here today representing Attorney General Bob Stephan in asking for your support of House Bill 2460. This bill would give a law enforcement officer the power to request a person who is driving or attempting to drive on Kansas roads or highways to submit to a chemical test for alcohol or drugs regardless of where the test would be administered, even if outside the officer's jurisdiction.

The current provisions of the Kansas law relating to driving under the influence of alcohol or drugs pertain to the implied consent of an individual to have a blood sample taken. The Kansas implied consent law applies only in the State of Kansas.

The problem arises in the metropolitan Kansas City area or any border area when an accident occurs in Kansas but the accident victim is transported across the border to Missouri or another border state. It is unclear if a Kansas law enforcement officer

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 2
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has the authority to request the person to submit to chemical tests for B.A.T. analysis under the Kansas implied consent law. This law would also apply to the Federal reservations located in Kansas for accidents occurring off of the military reservation, but when the persons involved are transported to military hospitals.

All the due process protection which is afforded a person would still be intact and the accident and any traffic or criminal charges would be brought in the jurisdiction in which the accident occurred.

The implied consent law being applicable within or without of the state would also prevent some individual from saying that his/her driver's license can not be suspended because Kansas does not have the legal right to request or obtain a blood sample in another state even if the accident occurred in Kansas.

K.S.A. 8-1001 does not address specifically the within or without Kansas issue, but when K.S.A. 8-1001 is read with K.S.A. 8-1501, it becomes restricted to within the state of Kansas.

I encourage you to support this bill and I will be happy to answer any questions you may have. Thank you.

SUMMARY OF TESTIMONY

Before the House Federal & State Affairs Committee

March 14, 1989

House Bill 2460

Presented by the Kansas Highway Patrol

(Lieutenant Bill Jacobs)

Appeared in Support

The Kansas Highway Patrol supports House Bill 2460

House Bill 2460 would amend K.S.A. 8-1001 by adding language to expand the consent of a person who operates or attempts to operate a motor vehicle within this state to submit to one or more tests of their blood, breath or urine or other bodily substance to determine the presence of alcohol or drugs. The new language would extend that consent to "irrespective of where such test may be administered, either in or out of state".

At present, if an accident occurs in Kansas near a state line and a driver(s) who is suspect of being under the influence of alcohol is taken to a hospital in a neighboring state, there is no provision in Kansas law to allow testing of that person in another state.

The bill would definitely be an enhancement to present Kansas statutes which govern the operation of a vehicle while under the influence of alcohol or drugs.

Kansas has been a leader for some time in legislation to deter driving while under the influence and this bill is another needed addition to our laws to prevent a violation which causes many deaths and serious injuries on our highways each year.

The Kansas Highway Patrol supports all legislation which makes the highways safer for the motoring public and asks for your favorable consideration of House Bill 2460.

House Federal & State Affairs Committee
Hearing on HB 2460
Richard Taylor, President
KANSANS FOR LIFE AT ITS BEST!

This morning on national TV it was good to hear that Dallas, Falcon Crest, and other prime time shows will include lines in the script such as, "We better choose a designated driver now" or "I'm driving tonight so I'll not drink."

Then a college professor came on saying this was too simplistic and would not solve the problem.

Death and injury on the highway is so wide spread, we must come at it from all directions. This bill will help.

When lawmakers want to oppose a bill, such as making .05% BAC the legal limit in Kansas, they give all sorts of excuses such as, "This law will not solve the drinking driver problem."

No one action by any group will solve the problem, but everything done by concerned citizens can help reduce the suffering.

STATE OF KANSAS

J. C. LONG
HOUSE OF REPRESENTATIVES
ONE HUNDREDTH DISTRICT
Harper, Barber,
Kingman and Sumner Counties



TOPEKA
—
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: PENSIONS INVESTMENTS AND
BENEFITS
MEMBER: COMMERCIAL AND FINANCIAL INSTITUTIONS
FEDERAL AND STATE AFFAIRS
TAXATION
NATIONAL CONFERENCE OF STATE
LEGISLATURES COMMITTEE ON
GOVERNMENT OPERATIONS
AMERICAN LEGISLATIVE EXCHANGE COUNCIL
MEMBER: STATE STEERING COMMITTEE

TESTIMONY IN SUPPORT OF PROPOSED SUBSTITUTE FOR HOUSE BILL 2334

AMENDING KSA 74-8814

Current law provides for the following fees under KSA 74-8814

Parimutuel tracks: \$5,000

County Fair Associations: \$5,000 or discretion of Racing Commission

Changes proposed in House Substitute for 2334

Parimutuel tracks organized under the County Fair Association Statute (KSA 2-125)
not to exceed \$500, plus \$100 for each day of racing

Investigate only the President, Vice-President, Secretary and Treasurer of a
county fair association organized under KSA 2-125 which wishes to hold
parimutuel racing.

Under current law, large parimutuel tracks have the same application fees as
county fair association tracks. This bill would reduce the non-refundable
application fee from a maximum of \$5,000 to a maximum of \$500.

Under current law all members of a county fair association shall be
investigated before a fair association is eligible for an organization license.
Many fair associations have in excess of 20 members on this board which creates
a large expense to the association when applying for a license. The cost, in
instances, would exceed the revenue from the racing thereby making this current
investigation law cost prohibitive.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 5
3/22/89

PROPOSED Substitute for HOUSE BILL NO. 2334

By Committee on Federal and State Affairs

AN ACT amending the Kansas parimutuel racing act; concerning certain organization licensees; amending K.S.A. 1988 Supp. 74-8814 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1988 Supp. 74-8814 is hereby amended to read as follows: 74-8814. (a) Subject to the provisions of subsection (b), the commission shall establish by rules and regulations application--and--license--fees--not--exceeding--those provided--by--K.S.A.--1987--Supp.--74--8813 an application fee not exceeding \$500 for any of the following which applies for an organization license and the license fee for any of the following granted an organization license shall be \$100 for each day of racing approved by the commission:

(1) Any fair association, other than the Greenwood county and Anthony fair associations, organized pursuant to K.S.A. 2-125 et seq. and amendments thereto, or the national greyhound association of Abilene, Kansas, if: (A) Such association conducts not more than two race meetings each year; (B) such race meets are held within the boundaries of the county where the applicant is located; and (C) such race meetings are held for a total of not more than 21 days per year; or

(2) the Greenwood county fair association or the Anthony fair association with respect to race meetings conducted by such association at Eureka Downs or Anthony Downs, respectively, for which the number of race meetings and days, and the dates thereof, shall be specified by the commission.

(b) The application fee for a county fair association applying for an organization license to conduct only harness horse races without parimutuel wagering shall be \$50 for each

application, and no license fee shall be required of such association for any day of a race meeting of less than 10 days of only harness horse racing without parimutuel wagering.

(c) The Kansas bureau of investigation shall investigate the president, vice-president, secretary and treasurer, and no other members, of a county fair association to determine eligibility for an organization license.

(d) Except as otherwise provided by this section, all applicants for organization licenses for the conduct of race meetings pursuant to the provisions of this section shall be required to comply with all the provisions of K.S.A. 1987 1988 Supp. 74-8813 and amendments thereto.

Sec. 2. K.S.A. 1988 Supp. 74-8814 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

PROPOSED AMENDMENT TO HB 2334

Add three sections to read as follows:

"Sec. 2. K.S.A. 1988 Supp. 74-8810 is hereby amended to read as follows: 74-8810. (a) It is a class A misdemeanor for any person to have a financial interest, directly or indirectly, in any racetrack facility within the state of Kansas:

(1) While such person is a member of the commission or during the five years immediately following such person's term as member of the commission; or

(2) while such person is an officer, director or member of an organization licensee, other than a county fair association, or during the five years immediately following the time such person is an officer, director or member of such an organization licensee.

(b) It is a class A misdemeanor for any member, employee or appointee of the commission, including stewards and racing judges, to knowingly:

(1) Participate in the operation of or have a financial interest in any business which has been issued a concessionaire license, facility owner license or facility manager license, or any business which sells goods or services to an organization licensee;

(2) participate directly or indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse, entered in a race meeting conducted in this state;

(3) place a wager on an entry in a horse or greyhound race conducted by an organization licensee; or

(4) accept any compensation, gift, loan, entertainment, favor or service from any licensee, except such suitable facilities and services within a racetrack facility operated by an organization licensee as may be required to facilitate the performance of the member's, employee's or appointee's official duties.

(c) It is a class A misdemeanor for any member, employee or appointee of the commission, or any spouse, parent, grandparent, brother, sister, child, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law thereof, to:

- (1) Hold any license issued by the commission; or
- (2) enter into any business dealing, venture or contract with an owner or lessee of a racetrack facility in Kansas.

(d) It is a class A misdemeanor for any officer, director or member of an organization licensee, other than a county fair association, to:

(1) Receive, for duties performed as an officer or director of such licensee, any compensation or reimbursement or payment of expenses in excess of the amounts provided by K.S.A. 75-3223 and amendments thereto for board members' compensation, mileage and expenses; or

(2) enter into any business dealing, venture or contract with the organization licensee or, other than in the capacity of an officer or director of the organization licensee, with a facility owner licensee, facility manager licensee or concessionaire licensee; ~~or~~

~~{3}--place-a-wager-on-an-entry-in-a-horse-or-greyhound--race conducted-by-an-organization-licensee.~~

(e) It is a class A misdemeanor for any facility owner licensee or facility manager licensee, or any officer, director or employee thereof, to:

~~{1} participate directly or indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse, entered in a race meeting conducted in this state; ~~or~~~~

~~{2}--place--a-wager-on-an-entry-in-a-horse-or-greyhound-race conducted-by-an-organization-licensee.~~

(f) It is a class A misdemeanor for any employee of an organization licensee, employed in the racing department at a racetrack owned or operated by the licensee, to place a wager on an entry in a horse or greyhound race conducted by such licensee. Such prohibition shall not be construed as applying to other

employees, officers or directors of an organization licensee, facility manager licensee or facility owner licensee having no day-to-day responsibility for supervision of the conduct of the races or to the spouses, children or relatives of any employee of a licensee who are making wagers on their own behalf.

(g) It is a class B misdemeanor for any person to use any animal or fowl in the training or racing of racing greyhounds.

~~(g)~~ (h) It is a class A misdemeanor for any person to:

(1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person to be under 18 years of age, upon conviction of the first offense;

(2) accept, transmit or deliver, from a person outside a racetrack facility, anything of value to be wagered in any parimutuel system of wagering within a racetrack facility, upon conviction of the first offense;

(3) administer or conspire to administer any drug or medication to a horse or greyhound within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the first offense;

(4) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse or greyhound in violation of rules and regulations of the commission, upon conviction of the first offense;

(5) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or medications to horses or greyhounds in violation of rules and regulations of the commission, upon conviction of the first offense;

(6) enter any horse or greyhound in any race knowing such horse or greyhound to be ineligible to compete in such race pursuant to K.S.A. 1987 1988 Supp. 74-8812 and amendments thereto; or

(7) prepare or cause to be prepared an application for registration of a horse pursuant to K.S.A. 1987 1988 Supp. 74-8830 and amendments thereto knowing that such application

contains false information.

~~(h)~~ (i) It is a class E felony for any person to:

(1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person to be under 18 years of age, upon conviction of the second or a subsequent offense;

(2) accept, transmit or deliver, from any person outside a racetrack facility, anything of value to be wagered in any parimutuel system of wagering within a racetrack facility, upon the second or a subsequent conviction;

(3) conduct or assist in the conduct of a horse or greyhound race where the parimutuel system of wagering is used or is intended to be used and where no license has been issued to an organization to conduct such race;

(4) enter any horse or greyhound in any race conducted by an organization licensee knowing that the class or grade in which such horse or greyhound is entered is not the true class or grade or knowing that the name under which such horse or greyhound is entered is not the name under which such horse or greyhound has been registered and has publicly performed;

(5) use or conspire to use any device, other than an ordinary whip for horses or a mechanical hare for greyhounds, for the purpose of affecting the speed of any horse or greyhound at any time during a race conducted by an organization licensee;

(6) administer or conspire to administer any drug or medication to a horse or greyhound within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(7) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse or greyhound in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(8) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or

medications to horses or greyhounds in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(9) sponge the nostrils or windpipe of a horse for the purpose of stimulating or depressing such horse or affecting its speed at any time during a race meeting conducted by an organization licensee;

(10) alter or attempt to alter the natural outcome of any race conducted by an organization licensee;

(11) influence or attempt to influence, by the payment or promise of payment of money or other valuable consideration, any person to alter the natural outcome of any race conducted by an organization licensee;

(12) influence or attempt to influence any member, employee or appointee of the commission, by the payment or promise of payment of money or other valuable consideration, in the performance of any official duty of that member, employee or appointee;

(13) fail to report to the commission or to one of its employees or appointees knowledge of any violation of this act by another person for the purpose of stimulating or depressing any horse or greyhound, or affecting its speed, at any time during any race conducted by an organization licensee;

(14) commit any of the following acts with respect to the prior racing record, pedigree, identity or ownership of a registered horse or greyhound in any matter related to the breeding, buying, selling or racing of the animal: (A) Falsify, conceal or cover up, by any trick, scheme or device, a material fact; (B) make any false, fictitious or fraudulent statement or representation; or (C) make or use any false writing or document knowing that it contains any false, fictitious or fraudulent statement or entry; or

(15) pass or attempt to pass, cash or attempt to cash any altered or forged parimutuel ticket knowing it to have been altered or forged.

~~(i)~~ (j) No person less than 18 years of age shall purchase a parimutuel ticket or an interest in such a ticket. Any person violating this subsection shall be subject to adjudication as a juvenile offender pursuant to the Kansas juvenile offender code.

~~(j)~~ (k) Possession of any device described in subsection ~~(h)~~(5) (i)(5) by anyone within the confines of a racetrack facility shall be prima facie evidence of intent to use such device.

Sec. 3. K.S.A. 1988 Supp. 38-1502 is hereby amended to read as follows: 38-1502. As used in this code, unless the context otherwise indicates:

(a) "Child in need of care" means a person less than 18 years of age who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-715, 41-2721 or subsection ~~(i)~~ (j) of K.S.A. ~~1987~~ 1988 Supp. 74-8810, and amendments thereto, does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments

thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian; or

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

(b) "Physical, mental or emotional abuse or neglect" means the infliction of physical, mental or emotional injury or the causing of a deterioration of a child and may include, but shall not be limited to, failing to maintain reasonable care and treatment, negligent treatment or maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 38-1513 and amendments thereto.

(c) "Sexual abuse" means any act committed with a child which is described in article 35, chapter 21 of the Kansas Statutes Annotated and those acts described in K.S.A. 21-3602 or 21-3603, and amendments thereto, regardless of the age of the child.

(d) "Parent," when used in relation to a child or children, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the child.

(e) "Interested party" means the state, the petitioner, the child, any parent and any person found to be an interested party pursuant to K.S.A. 38-1541 and amendments thereto.

(f) "Law enforcement officer" means any person who by

virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(g) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(h) "Shelter facility" means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for the care of children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(i) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which, if in a city or county jail, must be in quarters separate from adult prisoners.

(j) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(k) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility, other than a juvenile detention facility, shall be in a city or county jail.

(l) "Ward of the court" means a child over whom the court has acquired jurisdiction by the filing of a petition pursuant to this code and who continues subject to that jurisdiction until the petition is dismissed or the child is discharged as provided in K.S.A. 38-1503 and amendments thereto.

(m) "Custody," whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(n) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(o) "Secretary" means the secretary of social and rehabilitation services.

(p) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(q) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-1505a and amendments thereto, in a proceeding pursuant to this code.

(r) "Multidisciplinary team" means a group of persons, appointed by the court or by the state department of social and rehabilitation services under K.S.A. 1988 Supp. 38-1523a and amendments thereto, which has knowledge of the circumstances of a child in need of care.

Sec. 4. K.S.A. 1988 Supp. 38-1602 is hereby amended to read as follows: 38-1602. (a) "Juvenile" means a person 10 or more years of age but less than 18 years of age.

(b) "Juvenile offender" means a person who does an act while a juvenile which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto or who violates the provisions of K.S.A. 41-715, 41-2721 or subsection ~~(i)~~ (j) of K.S.A. 1987 1988 Supp. 74-8810, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense in violation of chapter 8 of the Kansas Statutes Annotated or any city ordinance or county resolution which

relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated;

(3) a person 16 years of age or over who is charged with a felony or with more than one offense of which one or more is a felony after having been adjudicated in two separate prior juvenile proceedings as having committed an act which would constitute a felony if committed by an adult and the adjudications occurred prior to the date of the commission of the new act charged;

(4) a person who has been prosecuted as an adult by reason of subsection (b)(3) and whose prosecution results in conviction of a crime;

(5) a person whose prosecution as an adult is authorized pursuant to K.S.A. 38-1636 and amendments thereto; or

(6) a person who has been convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto.

(c) "Parent," when used in relation to a juvenile or a juvenile offender, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the juvenile.

(d) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(e) "Youth residential facility" means any home, foster home or structure which provides twenty-four-hour-a-day 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which, if in a city

or county jail, must be in quarters separate from adult prisoners.

(g) "State youth center" means a facility operated by the secretary for juvenile offenders.

(h) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(i) "Secretary" means the secretary of social and rehabilitation services.";

Re-number sections 2 and 3 and amend the repealer and title accordingly

Wednesday, March 22, 1989

Denny Burgess
Sunflower Racing, Inc.

Testimony

I am Denny Burgess representing Sunflower Racing and I have an amendment to HB 2334. The change is at the bottom of page 2 and the top of page 3. This would restrict employees at a race track responsible for the conduct of races such as stewards, judges or racing secretaries from betting at the track where they work. Other employees having no day to day supervision of the races such as parking attendants or concession employees could place wagers in Kansas. Under the existing statute they would have to go out of State if they want to place a wager.

JONATHAN P. SMALL, CHARTERED

Attorney and Counselor at Law
Suite 304, Capitol Tower
400 West Eighth Street
Topeka, Kansas 66603
913/234-3686

March 22, 1989

TESTIMONY BEFORE THE FEDERAL AND STATE AFFAIRS COMMITTEE

RE: HOUSE BILL 2334

I am Jonathan P. Small, attorney and lobbyist for Greenwood County Fair Association, (GCFA), the non-profit entity which owns and operates Eureka Downs, a pari-mutuel horse racing facility located in Eureka Kansas.

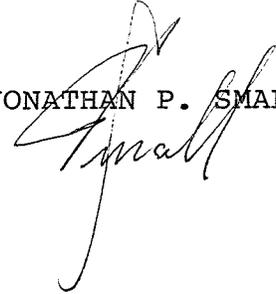
I appear to support the concept limiting background investigations for certain individuals associated with the county fair pari-mutuel racing programs offered this day by representative J.C. Long. It is the position of GCFA that the extensive and very expensive background investigations regarding all of the individuals who are members of the boards of directors for fair associations is essentially unnecessary to the extent that many board members are removed from the actual operation of the racing program. In many instances only a handful of directors have any direct knowledge or participation in or review of activities involving the racing program. The proposals submitted to you this day by Mr. Long appear to appropriately narrow the field of directors to be investigated to only those who have a direct responsibility for the pari-mutuel operations. This amendment would work to provide county fair associations with a significant savings.

Further, GCFA supports the concept reviewed by Mr. Denny Burgess, representative of Sunflower Racing, Inc., which if adopted would allow certain members and employees of organization licensees operating pari-mutuel racing facilities in Kansas to place wagers on pari-mutuel races at facilities located in Kansas where they are not employed. It is our impression that this flexibility would enhance the available number of individuals who could place wagers at a facility; a cogent illustration of this would be employees of the greyhound facility in Wichita presently are not allowed under the statutes to place wagers at Eureka Downs, whereas, Mr. Burgess' proposal would allow those employees to go to Eureka Downs and place wagers. The potential consequence of this flexibility would be to increase the potential handle on any given race day. We think such a change in the statute would be healthy. It would not compromise the security or pari-mutuel integrity guidelines which this legislature pursued in developing the pari-mutuel legislation initially. We

also point out that presently it is extremely difficult (if not impossible) to check all individuals placing wagers at a facility to determine whether or not such individuals are employed by an organization or facility owner licensee operating elsewhere in Kansas. It seems both prudent and justified to favorably pursue the amendment to the statute as discussed by Mr. Burgess.

If we can provide additional information or be of assistance we would be happy to do so.

JONATHAN P. SMALL

A handwritten signature in black ink, appearing to read 'Jonathan P. Small', written over the typed name.

JS0330T1

All revenue from the sale of lottery tickets will be deposited in the lottery operating fund. The moneys credited to the fund will be used to pay the expenses of the lottery, compensation to lottery retailers, lottery prizes, and repayment of the start-up funds appropriated or transferred from the State General Fund. Any funds appropriated or transferred from the State General Fund for the operation of the lottery will be a loan to be repaid with interest within 24 months of the effective date of the appropriation. During FY 1988 any balance remaining in the fund after payment of operating expenses, prizes, and retailer compensation will be transferred to the Gaming Revenue Fund. For FY 1989 and subsequent years, a minimum of 30 percent of total revenue from ticket sales will transferred to the Gaming Revenue Fund. A minimum of 45 percent of total ticket sales revenue is used to pay lottery prizes.

The right of a person to a prize will not be assignable. All prizes will be taxed as Kansas source income and prizes subject to federal income tax withholding will also be subject to state withholding. Warrants for prizes that exceed \$5,000 will be paid by the Division of Accounts and Reports and subject to set-off-procedures. Unclaimed prize money will be retained for a period established in rules and regulations after which time it will be added to the prize pools of subsequent lottery games. Sales of lottery tickets are exempt from retailers' sales taxes.

Parimutuel Wagering

H.B. 2044 creates the Kansas Racing Commission composed of five Kansas residents, no more than one of whom can be from the same congressional district, appointed by the Governor for staggered three-year terms. The Commission is authorized to license and regulate all aspects of racing and parimutuel wagering in the state. No more than three members of the Commission may belong to the same political party. Compensation, in addition

to mileage and subsistence paid for meetings of the Commission, will be determined by the Governor.

The Governor also is authorized to appoint, subject to confirmation by the Senate, an executive director of the Commission. The executive director will serve at the pleasure of the Governor, be a full-time unclassified employee and receive compensation as determined by the Commission. The executive director is authorized to recommend to the Commission the number and qualifications of employees necessary to implement the act, employ persons for positions approved by the Commission, and perform other duties as directed by the Commission.

The Commission has sole authority to allocate race days and hours and review and approve all proposed construction and major renovations of racetracks. The Commission is authorized to exclude persons from races or racetrack facilities and suspend horses or greyhounds from races if the animals are involved in a violation of the racing law or regulations. The Commission is authorized to adopt rules and regulations providing for drug testing of any licensees and officers, director, and employees of licensees.

The Commission is required to appoint three employees: an inspector of parimutuels; an animal health officer; and a director of security, all of whom will serve in the unclassified service. All of the Commission's other employees will be in the classified civil service. The director of security is required to be a professional law enforcement officer with education and experience in law enforcement. The full-time animal health officer and any part-time assistants must be veterinarians. The animal health officer or assistant animal health officers are permitted to administer drugs to racing animals as authorized by the rules and regulations of the Commission. The Commission is authorized to require licensees to reimburse the state for the salaries of the assistant animal health officers. The Attorney General is authorized to appoint up to two Assistant Attorneys General to work for the Commission.

Employees designated by the executive director with the approval of the Commission will have law enforcement powers in the execution of duties imposed by the act. Any employees certified to carry firearms will be required to successfully complete the firearms training course required for law enforcement officers.

The Commission is authorized to appoint an advisory committee composed of people knowledgeable in the horse and greyhound breeding and racing industries. The members of the committee would serve without compensation.

The bill establishes a number of prohibited acts and prescribes criminal penalties. Commission members are prohibited from having direct or indirect financial interest in any racetrack facility in Kansas during, or for five years immediately following, their term on the Commission. Members, employees or appointees of the Commission are prohibited from:

- participating in or having a financial interest in a licensed concessionaire business, an owner or manager license, or any business that sells goods or services to an organization licensee;
- participating directly or indirectly as an owner, trainer or jockey of an animal racing in Kansas;
- betting on races; or
- accepting compensation, gifts, loans or other favors or services from any licensee.

Members, employees or appointees of the Commission, or their families, are prohibited from:

- holding a license issued by the Commission; or
- entering into any business dealing with an owner or lessee of a racetrack in Kansas.

Other prohibited acts include:

- possession of a parimutuel ticket by a minor or selling a parimutuel ticket or interest in a ticket to a minor;
- placing bets for persons who are outside the racetrack;
- entering an ineligible animal in a race;
- providing false information on a horse registration application;
- conducting an unlicensed race for the purpose of betting;
- running a racing animal in an improper class or grade or under a false name;
- using any device other than a whip or mechanical hare to affect a racing animal's speed during a race;
- using or administering drugs to a racing animal in violation of rules and regulations of the Commission;
- altering or attempting to alter the natural outcome of a race;
- failing to report violations of the prohibition against artificially affecting the speed of a racing animal;

- falsifying or making false statements in regard to the racing record, pedigree, identity or ownership of a racing animal;
- knowingly passing or attempting to pass an altered or forged parimutuel ticket; or
- using any animal or fowl in the training of racing greyhounds.

Under the act, only nonprofit organizations may be licensed to conduct races and the licenses may be for an exclusive geographic area. All persons working in the parimutuel operation are required to be employees of the nonprofit organization. Officers, directors, or members of organization licensees, other than county fair associations, are prohibited from having direct or indirect financial interest in a racetrack during or for five years immediately following the member's term with the licensee and are prohibited from receiving compensation in excess of that provided by law for most state boards and commissions. Those individuals are also prohibited from entering into business dealings with the licensee or, as private individuals, with a facility owner licensee, facility manager licensee, or concessionaire. Officers, directors, and members of organization licensees are prohibited from betting on races held in Kansas.

An application fee of \$5,000 is required for a license to conduct horse or greyhound races at which parimutuel wagering is conducted. The application fee for a license to conduct horse races without parimutuel wagering is \$500. A license fee of \$200 for each day of racing is required as prescribed by rules and regulations of the Commission. County fair associations applying for organization licenses to conduct only harness racing without parimutuel wagering will be charged \$50 and no license fee will be charged for less than ten days of racing.

The Commission is authorized to establish lower application and license fees for county fair associations if they conduct no more than two race meetings per year for a total of 21 or fewer racing days in the county where the association is located. Lower application and license fees may be set by the Commission for the associations at Eureka Downs or Anthony Downs for the number of meetings and days specified by the Commission.

All contracts and agreements proposed by the licensee and plans for construction of racetracks must be approved by the Commission. Licensees may conduct races only within a single county that approved the parimutuel racing amendment at the November, 1986 general election.

No officers, stockholders, directors, employees, or agents of the licensee could ever have been convicted of racing or gambling offenses, sale or possession of controlled substances, operation of any illegal business, repeated acts of violence or any felony. Organization licenses may be issued for a maximum of 25 years and reviewed annually. The Commission is authorized to suspend or revoke an organization license or impose a fine up to \$5,000 or both for certain violations of the act. Changes in ownership or control or contracts of licensees require Commission approval.

Organization licensees, other than county fair associations, are required to distribute all of their net earnings (except amounts necessary for debt service and track maintenance) to other nonprofit, tax exempt, charitable, Kansas organizations that must spend the funds in Kansas. Licensees are prohibited from distributing more than 25 percent of their net earnings during any one year to any one organization.

Applicants for organization licenses who propose to construct a racetrack or applicants for facility owner licenses are required to pay a deposit of \$500,000 for 150 racing days or more or a deposit of \$250,000 for less than 150 racing days. The Commission is authorized

to establish a lesser deposit for county fair associations and the licensee operating races at the state fairgrounds. The deposit would be refunded if the application is denied or when the terms of the license are met. If a licensee fails to meet the terms of the license, the deposit would be forfeited.

Applicants for organization or facility owner licenses who propose to construct a track are required to submit a plan for financing with the application. The Commission is specifically authorized to approve the plan for financing as part of the licensing procedure, to reject applications based on the financing proposal, and to suspend or revoke a license if the approved financing plan is not followed. The Commission also is authorized to issue a conditional license pending proof of financing. The duration of the conditional license will be set by the Commission.

The Commission is authorized to issue facility owner licenses to individuals, the state of Kansas or any of the state's political subdivisions. The Commission is also authorized to issue facility manager licenses to any person who meets the legal requirements. The licenses may be issued for a maximum of 25 years. The application fee for either is \$5,000.

Any person working on the track, including an owner of racing animals, is required to have an occupation license issued by the Commission. Occupation licenses may be issued for a period of up to three years and the maximum license fee will be \$200. The Commission is given broad authority to conduct background examinations of applicants for occupation licenses.

All concessionaires and businesses that operate within the racetrack facility would have to be licensed by the Commission. The procedures and requirements would be similar to those for occupational licensees. A concessionaire license may be issued for a period up to ten years.

The Commission is authorized to appoint and pay stewards and racing judges at each race meeting and to require an organization licensee to reimburse the Commission for compensation paid to the stewards and judges.

A minimum of between 78 and 82 percent of the total parimutuel wager pool, depending upon the type of wagers, would be returned to bettors. The remainder of the pool, known as the takeout, would be used to pay purses to race winners and taxes to the state with the balance going to the organization licensee. Minimum purses for greyhound races must total 4/18 of the takeout and minimum purses for horse races must total 6/18 of the takeout. The tax rate on greyhound races conducted at single purpose tracks is 3/18 of the takeout for the first through fourth years of racing, 4/18 for the fifth year, and 5/18 for the sixth and subsequent years. At dual tracks, the tax rate on greyhounds is 3/18 of the takeout for the first through seventh years, 4/18 for the eighth and ninth years, and 5/18 for the tenth and subsequent years. The tax rate on horse races is 3/18 of the takeout at any type of facility. Other provisions regarding dual tracks include: a penalty of 2 percent of the daily handle from the opening of the track to the originally specified completion date that would be imposed for failure to complete an approved dual facility; facility owners or organization licensees authorized to build a dual facility would have their licenses revoked if facilities are not built according to plans approved by the Commission; and organization licensees granted licenses for dual tracks would be required to conduct horse races on no less than 20 percent of their approved annual racing days. The tax revenue would be deposited in the State Racing Fund. A 10 percent tax will be imposed on admission charges. Revenue from the admissions tax will also be deposited in the State Racing Fund. Expenditures, in accordance with appropriations acts, will be made from the Racing Fund for operation of the Commission. Any amount in the fund in excess of the amount appropriated will be transferred on July 15 of each year, or at other times as provided by law, to the Gaming Revenues Fund.

An additional \$.20 per admission will be charged on all admissions, whether paid or unpaid, to tracks exempt from local property taxes. The tax will be remitted to the state for disbursement to the county or city and county in which the racetrack is located.

The Kansas Horse Breeding Development Fund and the Kansas Greyhound Breeding Development Fund are created. Revenue for the two funds will be derived from unclaimed winning ticket proceeds and breakage (the result of rounding off odd cents on paybacks to bettors). Expenditures from the funds will be for supplemental purses for Kansas bred animals and for research, and 15 percent of the greyhound fund will be provided to the Department of Commerce for the promotion of greyhound-related tourism.

HEALTH AND HEALTH CARE PROVIDERS

Alcoholism Treatment Facilities -- Licensing

H.B. 2416 amends three of the statutes that relate to the licensing of alcoholism treatment facilities by the Secretary of Social and Rehabilitation Services. The amendments change the license renewal requirements from an annual renewal for all facilities to a variable renewal requirement of one, two, or three years, based on the compliance of a facility with standards and rules and regulations adopted by the Secretary. In order to conform to the expanded license renewal period authorized by H.B. 2416, the requirement for a facility inspection is changed from annual to at least once each licensing period, and the license fee is increased from \$25.00 to not more than \$100.00 as prescribed by rules and regulations.

Birth Certificates -- Disclosure of Information

S.B. 259 amends one of the statutes that comprise the Uniform Vital Statistics Act to provide that no information concerning the birth of a child may be disclosed in a manner that would make it possible to determine that the child who is the subject of the birth certificate was born out of wedlock. Currently, the law provides that no information relating to whether the child's parents were married at the time of the child's birth may be disclosed.

S.B. 259 also adds a new provision to the Uniform Vital Statistics Act that authorizes those records of births, deaths, and marriages that are not in the custody of the Secretary of Health and Environment and that were created prior to July 1, 1911, pursuant to Chapter 129 of the 1885 Session Laws of Kansas, to be open to inspection.

Community Mental Health Centers Assistance Act

S.B. 316 creates the Kansas Community Mental Health Centers Assistance Act and repeals the Kansas Community Mental Health Assistance Act under which state financial assistance, often referred to as "649" assistance, has been provided to community mental health centers.

Under the terms of S.B. 316, for the first fiscal year commencing after June 30, 1987, the Secretary of Social and Rehabilitation Services is to make grants to each mental health center equal to the amount the center's average grant would have been under the previous act for fiscal years 1986, 1987, and 1988, if such act had not been repealed and if appropriations for fiscal year 1988 had remained constant from the previous fiscal year plus each center's pro rata share of any increase in appropriations including inflation adjustments. Money is to be prorated if appropriations have been reduced from the previous fiscal year.

necessary to determine whether racing animals are in compliance with drug and medication regulations. The Commission is required to give preference to laboratories located in Kansas.

2. The Commission is required to conduct an annual evaluation of facility owner and facility manager licensees to determine compliance with the Parimutuel Racing Act. More frequent evaluations could be conducted by the Commission at the Commission's initiative or if requested by an interested party. Facility owner and facility manager licensees also are required to file a certified annual financial audit with the Commission and to provide other information necessary for review.
3. A provision is added that requires a transfer to the State General Fund to pay back, with interest, any amount appropriated from that fund for operation of the Racing Commission. Transfers to the State General Fund will be authorized by appropriations acts.
4. The penalty for failure to complete a dual racetrack in accordance with plans approved by the Racing Commission is increased from 2 percent to 5 percent of the total parimutuel pool. The penalty will be imposed from the time that racing begins at the facility until the facility is completed and horse racing has begun.

Parimutuel Racing Licenses

H.B. 2773, as amended by H.B. 3119, requires the Racing Commission to charge certain license applicants for the cost of prelicensure investigations. The additional fees, if any, would be assessed against applicants for organization, facility owner, and facility manager licenses. The Commission would be prohibited from issuing a license until all such fees were paid.

The bill creates the Racing Investigative Expense Fund as the repository for the fees collected. The Commission would be required to pay all investigation expenses from the fund including those expenses incurred by other state agencies that assist in an investigation.

H.B. 2776, as amended by H.B. 3119, amends the Parimutuel Racing Act to exempt the original grant or denial of an organization, facility owner, or facility manager license from the provision of the Administrative Procedures Act (APA). The bill makes the original grant or denial of one of those three licenses a matter to be determined at the sole discretion of the Commission.

Any appeal of a Commission decision would be made directly to the Supreme Court in accordance with the Act for Judicial Review and Civil Enforcement of Agency Actions. The scope of the Court's review would be limited to whether the action of the Commission was arbitrary or capricious or constituted an abuse of discretion. All competing applicants for a license would be party to the appeal. Refusal to renew one of the three types of license is subject to the APA.

Racing License Investigation

H.B. 2774 authorizes the Kansas Racing Commission to recess into a closed or executive meeting to receive and discuss criminal history background investigation information about applicants for licensure. Negotiations with applicants regarding criminal history information could also be conducted in closed session.

The bill makes disclosure of information received in closed session a class A misdemeanor and grounds for removal from office, termination of employment or denial, revocation, or suspension of any license issued by the Commission. However, disclosure of such information at a hearing held under the authority of the Kansas Parimutuel Racing Act is not prohibited. The bill also amends the expungement statutes to allow access to expunged records of persons applying for employment with or licensure by the Commission.